

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**MARATHON ASHLAND PETROLEUM LLC  
AI # 3165**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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\* **Enforcement Tracking No.**

\* **AE-CN-02-0196**

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**SETTLEMENT**

The following Settlement is hereby agreed to between Marathon Ashland Petroleum LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent is a Limited Liability Company, which owns and/or operates a petroleum refinery facility located at or near Louisiana Highway 61 and Marathon Avenue in Garyville, St. John the Baptist Parish, Louisiana (“the Facility”).

**II**

On August 8, 2003, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-02-0196, to Respondent, which was based upon the following findings of fact:

The facility operates under Air Permit No. 2580-00013-11 issued on June 21, 1996. The Coker unit operates under Air Permit No. 2640-V0 issued on October 21, 1999.

On or about March 28, 2002, through April 11, 2002, an inspection was conducted at the Respondent's Marathon Refinery to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent's Naptha Hydrotreater Unit (Unit No. 11) is subject to the Louisiana Refinery MACT Determination dated July 26, 1994. The Respondent's monitoring frequency for valves is quarterly in accordance with paragraph I.1 of the MACT Determination. Approximately eighty-five (85) components were identified that were tagged but were not being monitored in accordance with the Respondent's fugitive emission monitoring program. These components had not been monitored since they were initially tagged, approximately 2 years ago. Each failure to monitor the approximately eighty-five (85) components is a violation of paragraph I.1 of the Louisiana Refinery MACT Determination dated July 26, 1994, the Equipment Leak Monitoring Program in the facility's Compliance Schedule (Air Toxics Compliance Plan No. 92050), Part 70 Specific Condition No. 1 of Air Permit No. 2640-V0, LAC 33:III.501.C.4, LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.
- B. A visible leak was observed dripping into a drain hub in the Respondent's Naptha Hydrotreater Unit. Monitoring of the drain hub gave a VOC vapor recording of 10,200 ppm. Although the control valve for the pipe was in the closed position, the leak continued to drip from the end of the pipe into the drain. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.
- C. During the Naptha Hydrotreater Unit leak detection and repair (LDAR) survey, two hundred sixty-eight (268) out of three hundred thirty-seven (337) accessible valves were monitored. Twenty-one (21) leaking valves were found. This is an approximate 7.8% leak rate. A comparison of the same three hundred thirty seven (337) valves monitored was made with records collected from the Respondent's LDAR contractor for monitoring completed on March 25, 2002, that showed six (6) leaks had been found. This is an approximate 1.8% leak rate. Based on the difference in the leak

rate determined at the time of the inspection and the leak rate reported by the Respondent, the Respondent failed to properly monitor valves in the Naptha Hydrotreater Unit per 40 CFR Part 60, Method 21. Each failure to properly monitor is a violation of paragraph P.2 of the Louisiana Refinery MACT Determination (July 26, 1994) as required by paragraph I.1 of the Louisiana MACT Determination for Refinery Equipment Leaks (Fugitive Emission Sources) (July 26, 1994) and noted in Part 70 Specific Condition No. 1 of Air Permit No. 2640-V0, Table 4 of the State Only Specific Condition of Air Permit No. 2640-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about October 5, 2002, a file review was conducted of the Respondent's Marathon Refinery to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

The Department has received an unauthorized discharge notification report from the Respondent dated October 2, 2002, regarding a release that began on September 26, 2002, at approximately 2:05 p.m. According to the Respondent's report, the FCC Gas Con Unit tripped earlier in the day and while the unit was being lined out, the Debutanizer overpressured and relieved to the flare. Smoke was observed from the flare for approximately twenty (20) minutes, which is in excess of the requirement for no visible emissions except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours. This is a violation of 40 CFR 60.18(c)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about October 16, 2002, a file review was conducted of the Respondent's Marathon Refinery to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

The Department has received an unauthorized discharge notification report from the Respondent dated October 15, 2002, regarding a release that began on October 8, 2002, at approximately 1:39 p.m. According to the Respondent's report, an instrument technician accidentally opened the 20

inch butterfly vent valve on the Fractionator Overhead Accumulator, relieving to the North Flare. Smoke was observed from the flare for approximately twelve (12) minutes, which is in excess of the requirement for no visible emissions except for periods not to exceed a total of five (5) minutes during any two consecutive (2) hours. This is a violation of 40 CFR 60.18(c)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

### III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent did not make a request for a hearing.

### IV

The Respondent self-reported the following additional items: eleven valves in Unit 10 were not monitored in the 4<sup>th</sup> quarter of 2002, one pump in Unit 9 was not repaired within fifteen days in April of 2003, six components in Units 9, 22, and 28 were not repaired within fifteen days in July of 2003, four components in Unit 22 were not repaired within fifteen days in August of 2003, CO emissions from the FCCU Scrubber exceeded the 500 ppm limit on November 15, 2002, an opacity exceedance from the Sulfur Recovery Unit occurred on January 27, 2003, an exceedance of the 90-day storage time and mislabeled drums of hazardous waste were noted in the summer of 2003, and two shipments of hazardous waste without a land disposal restriction notice attached to the shipping papers occurred in the summer of 2003.

### V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

## VI

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-TWO THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$22,250.00) of which FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

## VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. John the Baptist Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

## XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

[Signature]  
(Signature)

W.E. DOWS III  
(Printed or Typed)

[Signature]  
(Signature)

JJ Accardo  
(Printed or Typed)

MARATHON ASHLAND PETROLEUM LLC

BY: [Signature]  
(Signature)

RICHARD D. BEDELL  
(Printed or Typed)

TITLE: DIVISION MANAGER

Approved  
as to form  
0219

THUS DONE AND SIGNED in duplicate original before me this 25<sup>th</sup> day of  
March, 20 04, at St. John The Baptist Par. Sh. LA

[Signature]  
NOTARY PUBLIC (ID # 24,007)

Samuel J. Accardo, JR.  
(Printed or Typed)



STATE OF LOUISIANA  
Mike D. McDaniel, Ph. D., Secretary  
Department of Environmental Quality

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of  
July, 20 07, at Baton Rouge, Louisiana.

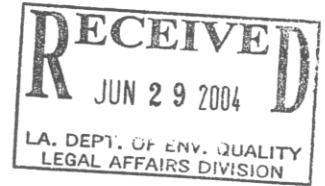
Jay Glorioso  
NOTARY PUBLIC (ID # 28050)  
Jay Glorioso  
(Printed or Typed)

Approved: R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005



June 23, 2004

Mike D. McDaniel, Secretary  
La. Department of Environmental Quality  
Office of the Secretary  
P.O. Box 4301  
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;  
Marathon Ashland Petroleum, LLC  
AE-CN-02-1096

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

  
NICHOLAS GACHASSIN  
First Assistant Attorney General

NG/cbw